



**AFRICAN PUBLIC PROCUREMENT
REGULATION RESEARCH UNIT**

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Current developments in African procurement law



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Reform:

Karangizi: “the recognition of the need to enact specific legislation to provide for clear and unambiguous laws on procurement”

African procurement law reform

1998 International Conference on Public Procurement Reform in Africa, Abidjan

2009 High Level Forum on Public Procurement Reform in Africa, Tunis

African procurement law reform

1998 International Conference on Public Procurement Reform in Africa, Abidjan

“(a) the need for modernisation of public procurement in Africa to meet international standards and best practice;
(b) the need to forge a consensus among all stakeholders on the urgency of engaging in public procurement reforms; and

(c) the need to promote national reform programmes with a common strategic framework focusing on accountability, transparency and efficiency.

African procurement law reform

2009 High Level Forum on Public Procurement Reform in Africa, Tunis
'to consolidate the reforms and promote a multi-sector and participatory approach, mainstreaming public procurement into all State reforms in order to improve their economic impact, particularly in innovative sectors'

African procurement law reform: Influences

1994 UNCITRAL Model Law

COMESA Public Procurement Reform
Project & Enhancing Procurement
Reforms and Capacity Project

WAEMU procurement reform project

Tied aid



Lesotho:
9% of \$253m

Social policy

Kenya: “disadvantaged groups”

“persons perceived to be denied, by mainstream society, access to resources and tools which are useful for their survival in a way that disadvantages them, or individuals who have been subjected to prejudice or cultural bias because of their identities as members of groups without regard to their individual qualities, and includes enterprises owned by women, the youth and persons with disabilities”

South Africa

Preferential Procurement Policy Framework Act (PPPFA)

100 points:

Preference: 10/20

Price: 90/80

South Africa: Preferential procurement

Constitution of the Republic of South Africa, 1996

217(2): “procurement policy providing for-

(a) categories of preference in the allocation of contracts; and

(b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination”

South Africa: Preferential procurement

BBBEE Status Level	Points 80/20	Points 90/10
1	20	10
2	18	9
3	16	8
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
none	0	0

South Africa: Preferential procurement

Broad-based Black Economic Empowerment Act

1. Ownership,
2. Management Control,
3. Employment Equity,
4. Skills Development,
5. Preferential Procurement,
6. Enterprise Development
7. Socio-Economic Development and Sector Specific Contributions.

South Africa: Price & functionality

2001 PPPFA Regulations:
Selection: Price + Functionality

2011 PPPFA Regulations:
Qualification: Functionality
Selection: Price

South Africa: Price & functionality

PPPFA

2(1)(f) the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) [preference criteria] justify the award to another tenderer;

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THANK YOU!
DANKIE!
ENKOSI KAKHULU!